



House of Representatives

File No. 811

General Assembly

January Session, 2001

(Reprint of File No. 249)

Substitute House Bill No. 6895
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 24, 2001

AN ACT CONCERNING DECISIONS OF THE CLAIMS COMMISSIONER.

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. (NEW) (a) (1) Within five days after the convening of the
2 2002 regular session, the Claims Commissioner shall report to the
3 General Assembly on all claims that have been filed with the Office of
4 the Claims Commissioner pursuant to section 4-147 of the general
5 statutes and have not been disposed of by the Claims Commissioner
6 within three years of the date of filing, except claims in which the
7 parties have stipulated to an extension of time for the Claims
8 Commissioner to dispose of the claim.

9 (2) Within five days after the convening of the 2003 regular session,
10 and each regular session thereafter, the Claims Commissioner shall
11 report to the General Assembly on all claims that have been filed with
12 the Office of the Claims Commissioner pursuant to section 4-147 of the
13 general statutes and have not been disposed of by the Claims
14 Commissioner within two years of the date of filing or within any
15 extension thereof granted by the General Assembly pursuant to

16 subsection (c) of this section, except claims in which the parties have
17 stipulated to an extension of time for the Claims Commissioner to
18 dispose of the claim.

19 (b) The Claims Commissioner shall give notice to all claimants
20 whose claims are the subject of a report as provided in subsection (a)
21 of this section that their claims will be considered at the next regular
22 session of the General Assembly pursuant to subsection (c) of this
23 section.

24 (c) With respect to any claim that is the subject of a report as
25 provided in subsection (a) of this section, the General Assembly may
26 (1) grant the Claims Commissioner an extension for a period specified
27 by the General Assembly to dispose of such claim, (2) grant the
28 claimant permission to sue the state, (3) grant an award to the
29 claimant, or (4) deny the claim.

30 Sec. 2. Subsection (a) of section 4-151 of the general statutes is
31 repealed and the following is substituted in lieu thereof:

32 (a) Claims shall be heard as soon as practicable after they are filed.
33 The following claims shall be privileged with respect to assignment for
34 hearing: (1) Claims by persons who are sixty-five years or older or who
35 reach such age during the pendency of the claim, and (2) claims by
36 executors or administrators of estates. Hearings may be held at the
37 Office of the Claims Commissioner, at any available hearing facility in
38 the State Capitol or Legislative Office Building, upon request at any
39 courthouse serving a judicial district or geographical area or city or
40 town hall in the state or at such other suitable place as the Claims
41 Commissioner finds is convenient and just to the claimant and to the
42 Attorney General.

43 Sec. 3. Subsection (c) of section 4-160 of the general statutes is
44 repealed and the following is substituted in lieu thereof:

45 (c) In each action authorized by the Claims Commissioner pursuant
46 to subsection (a) or (b) of this section or by the General Assembly

47 pursuant to section 4-159 or section 1 of this act, the claimant shall
48 allege such authorization and the date on which it was granted, except
49 that evidence of such authorization shall not be admissible in such
50 action as evidence of the state's liability. The state waives its immunity
51 from liability and from suit in each such action and waives all defenses
52 which might arise from the eleemosynary or governmental nature of
53 the activity complained of. The rights and liability of the state in each
54 such action shall be coextensive with and shall equal the rights and
55 liability of private persons in like circumstances.

56 Sec. 4. Section 4-154 of the general statutes is repealed and the
57 following is substituted in lieu thereof:

58 Within ninety days after hearing a claim, the Claims Commissioner
59 shall render [his] a decision. [He] The Claims Commissioner shall
60 make a finding of fact for each claim and file such finding with [his]
61 the order or recommendation disposing of the claim. The clerk of the
62 Office of the Claims Commissioner shall deliver a copy of such finding
63 and order or recommendation to the claimant and to the representative
64 for the state, which representative may in appropriate cases be the
65 Attorney General. If such claim will be submitted to the General
66 Assembly by the Claims Commissioner pursuant to the provisions of
67 section 4-159, the clerk shall give notice to the claimant that such claim
68 will be so submitted and that the General Assembly may accept, alter
69 or reject the recommendation of the Claims Commissioner.

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: Cost, Potential Significant Cost

Affected Agencies: Office of the Claims Commissioner

Municipal Impact: None

Explanation**State Impact:**

The bill could result in a cost of up to \$75,000 to the Claims Commissioner by establishing time limits for the disposal of claims. Between 400 and 750 new claims are filed with the Claims Commissioner each year. Approximately 790 claims have been disposed in each of the last three fiscal years and the backlog of claims has been reduced to 1,350. About half of the backlogged claims (680) are more than two years old. It is anticipated that the Claims Commissioner could reduce the backlog by 200 claims each year within available resources. This rate of reduction would be insufficient to meet the time limits established by the bill. Consequently, the Claims Commissioner would require two - three additional hearing officers to increase the processing of claims, at a total cost of \$50,000 - \$75,000 each year.

In addition, the bill could affect the disposition of claims. It requires the Claims Commissioner to report annually to the General Assembly on all claims that have not been disposed of within the time limits prescribed. With respect to the claims included in the report, the

General Assembly may: (1) grant the Claims Commissioner an extension of time to dispose of claims; (2) grant claimants permission to sue the state; (3) grant an award to the claimant; or (4) deny the claim. It is unknown how this would affect the outcome of claims. To the extent that it results in more authorizations to sue, however, the costs of litigation, settlement and adjudicated awards could be significant.

House "A" made a technical change to the bill that has no fiscal impact.

OLR Amended Bill Analysis

sHB 6895 (as amended by House "A")*

AN ACT CONCERNING DECISIONS OF THE CLAIMS COMMISSIONER.**SUMMARY:**

This bill requires the claims commissioner to report to the General Assembly within five days after it convenes the 2002 regular session, on all claims he has not disposed of within three years after they were filed with him. The requirement does not apply to claims where the parties have agreed to an extension of time.

The bill requires the commissioner to report to the General Assembly within five days after it convenes the 2003 regular session, and each regular session thereafter, on all claims that he has not disposed of within two years after they were filed with him. This requirement does not apply to claims where the parties have agreed to, or the General Assembly has granted, an extension.

The commissioner must notify all people whose claims are included in these reports that the General Assembly will consider them at its next regular session.

The bill authorizes the General Assembly to take the following actions regarding any claim included in the reports: (1) grant the commissioner an extension of time, (2) grant or deny an award, or (3) give the claimant permission to sue the state.

The bill gives the following claims priority for assignment for hearing before the commissioner: (1) claims by people over age 64 or who reach age 65 while their claim is pending and (2) claims by executors and administrators of decedents' estates.

The bill requires the commissioner to notify any claimant that he is submitting his claim to the General Assembly and that the General Assembly will accept, alter, or reject the commissioner's

recommendation.

The bill makes evidence that the Claims Commissioner or General Assembly authorized the claimant to sue inadmissible in the lawsuit as evidence of the state's liability.

*House Amendment "A" makes evidence of authorization to sue inadmissible as evidence of the state's liability.

EFFECTIVE DATE: October 1, 2001

BACKGROUND

Claims Commission Law

The law requires those who seek permission to sue the state to go to the claims commissioner unless their case falls within the following exceptions: (1) claims for the periodic payment of disability, pensions, retirement, or other employment benefits; (2) claims that the law allows to go directly to court; (3) claims for which an administrative hearing procedure is established by law; (4) requests by political subdivisions for the payments of grants in lieu of taxes; and (5) claims for tax refunds.

The commissioner can approve the immediate payment of "just claims" not exceeding \$7,500. "Just claims" are those that in equity and justice the state should pay, as long as it caused the damage or injury or received a benefit. The commissioner must report to the General Assembly on all such claims.

Anyone who filed a claim for more than \$7,500 but is awarded \$7,500 or less and wishes to protest the award, can waive immediate payment and have his claim submitted directly to the General Assembly. He must file this waiver with the commissioner within 10 days after he receives a copy of the order approving immediate payment. These claims are then handled the same as claims exceeding \$7,500.

Claims in Excess of \$7,500

If he recommends paying or rejecting claims over \$7,500, the commissioner must submit the recommendation to the General Assembly within five days after it convenes or at such other times as the

Senate president pro tempore and speaker of the House desire. He must include a copy of his findings and the hearing record of each claim he reports. The General Assembly may accept or alter the recommendation or reject it and grant or deny the claimant permission to sue the state.

Authorizations of Lawsuits Against the State

The General Assembly or the commissioner can authorize a claimant to sue the state when they deem it just and equitable and when the claim, in their opinion, presents an issue of law or fact under which the state, were it a private person, could be liable. In such situations, the state waives its immunity from liability and all defenses that might arise from the governmental nature of the activity complained of. The rights and liability of the state in these lawsuits are the same as those of private persons in similar circumstances.

The lawsuit must be filed within one year after it was authorized. It must be tried to the court without a jury.

Legislative History

The House referred the bill (File 249) on April 19 to the Legislative Management Committee, which reported it out unchanged on April 25. The House, on April 27, referred it to the Appropriations Committee, which reported it out unchanged on May 1. On May 4, the House referred it to the Government Administration and Elections Committee, which reported it out unchanged on May 7.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 39 Nay 0

Legislative Management Committee

Joint Favorable Report

Yea 17 Nay 9

Appropriations Committee

Joint Favorable Report

Yea 43 Nay 0

Government Administration and Elections Committee

Joint Favorable Report

Yea 17 Nay 0